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January 17, 2023

The Honorable Robert W. Lehrburger
Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Opposition Letter to Republic Defendants' Docket Number 20, *Frimpong v. Everyrealm, et al.*
Civil Action No. 1:22-cv-10487

Dear Judge Lehrburger,

Seppinni LLP represents plaintiff Gatsby Frimpong. In compliance with Your Honor's Individual Rules & Practices, Rule III.D, I write in opposition to OpenDeal Inc., OpenDeal Portal LLC, and Republic Operations LLC's ("Republic") proposed motions to force arbitration and dismiss the Sexual Harassment Dispute. Plaintiff also requests consecutively running briefing schedules rather than concurrent ones. This would allow him to adequately consider and respond to Republic's and, if necessary, the Everyrealm Defendants' arguments.

First, the EFA exempts Mr. Frimpong's case from arbitration. Republic has not offered evidence in support of the claim that Mr. Frimpong was only employed by Republic Operations until January 31, 2022. In fact, the documentary evidence in Mr. Frimpong's Complaint, shows that Republic paid every single paycheck to Mr. Frimpong from November 1, 2021, until at least March 4, 2022, after the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act ("EFA") was effective.¹ Mr. Frimpong will argue that Everyrealm was an alter ego that was controlled by Republic. Indeed, the Everyrealm Defendants claim themselves that Republic's employment agreement with Mr. Frimpong somehow covers them too. The two companies appear to have commingled funds, employed many of the same people at once, as alleged in the Complaint, and may have even shared office space during Mr. Frimpong's tenure.

Republic Defendants make much out of a minor typographical error in Mr. Frimpong's EEOC charge. But the parties agree that Mr. Frimpong's last day on payroll was either March 4 or 5 (due to Defendants' being in NY and Mr. Frimpong being in the UK). No case law support's

¹ For argument's sake, the Republic's claim that it no longer employed Mr. Frimpong as of January 31, 2022, if true, would show beyond doubt that, at the least, no agreement to arbitrate existed between Mr. Frimpong and the Everyrealm Defendants when this dispute accrued on March 4, 2022.

Republics' position that a typo dooms a claim where the uncontested facts show that the typo was plainly an error when it was written.

Second, the Complaint does not engage in impermissible group pleading. Republic plays a shell game in which it states on its own website, and elsewhere, that it is a d/b/a for a cavalcade of confusingly named corporations. Indeed, Republic's own Exhibit A shows that Republic played fast and loose with the smorgasbord of shell companies it runs: the offer's letterhead states "Republic," but the letter states that ". . . OpenDeal Operations LLC [is] a wholly owned subsidiary of [Defendant] OpenDeal Inc. dba Republic," it references "provid[ing] services" to another similarly named entity, Republic Realm Inc., and is signed by, Youngro Lee, whom the agreement identifies only as "COO" without explaining what specific entities employ him. This intentionally confusing and complex web of shell entities requires discovery to disentangle.

Third, the Complaint plausibly pleads severe and pervasive sexual harassment. Mr. Frimpong nearly had his long-term romantic relationship with his committed partner ruined by the sexual harassment he suffered at the hands of the Republic Defendants in front of her. *See gen.* Dkt. no 13, Hussain Decl. To characterize such grave misconduct as "petty slights, or minor annoyances" is to ignore both the law and the severe and pervasive factual allegations pled in Mr. Frimpong's 32-page Complaint.

Finally, While Republic's proposed motion arises under a motion to force arbitration, given the novelty of the legal issues presented under the EFA and Republic's stated intention to move to dismiss the Sexual Harassment Dispute, Plaintiff requests that your Honor issue a Report and Recommendation should Republic's motion(s) proceed.

Regards,

/s/ Shane Seppinni

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